

Remarks:

The Applicant thanks Examiner Daniel L. Greene for his thorough examination of this application and for his helpful discussion during the interviews.

Interview Summary:

Applicant James W. Wieder met with examiner Daniel L. Greene and supervisory examiner James P. Trammel for an Interview on Wednesday, June 24, 2009 beginning at ~1pm in the USPTO Knox building. Prior to the Interview, the Applicant had faxed informal discussion papers to examiner Daniel L. Greene. Discussion was held on the independent claims and prior art Conkwright; Cohn; Fanning; and Plastina. The Applicant understood that Examiner Greene agreed that the 102 Conkwright rejection was overcome because Conkwright [at the least] did not determine a rating indicating the magnitude of preference of the user. Examiner Greene also indicated that the 103 rejection “Conkwright .. further in view of either Cohn or Fanning” was overcome, because the Conkwright rejection was overcome. Examiner Greene also provided a copy of a new reference (Logan 5,732,26) he had recently found. More details of the Interview are discussed in the sections that follow.

The Applicant would like to thank both examiners for the very helpful Interview discussion.

The Applicant has written claims in a simpler and clearer form:

It should not be assumed that claims changes are simply made to overcome Office Action rejections/objections. There are many other possible reasons for making claim changes. As the Applicant expends additional effort on claim drafting, the Applicant may arrive at different and/or better and/or clearer ways to claim the invention. Such claim changes may result in different and/or broader elements/features than prior claims. In addition, to increase claim diversity and to save on additional claim fees, some claims may be canceled in-order to add newer/better claims that cover a wider diversity of features/elements.

Comments on Office Action assertion in item 2:

The Office Action stated that “during the interview on 11/19/2008 the applicant

acquiesced to ...”. The applicant traverses this assertion for at least the following reasons:

- 1) An interview is at the option/request of the applicant. The purpose of an interview is to help the applicant. It seems inconsistent with Office procedures for an examiner to try to use the interview process to try to collect an “acquiesce” from an applicant.
- 2) Since the time period available during the interview is very limited, an applicant must choose to focus in on certain issues and hence to deliberately ignore and avoid going off on a tangent on other issues.
- 3) The applicant has no recognition of such an acquiesce and does not recognize that this occurred during the interview.
- 4) The alleged acquiesce was not mentioned in either the “Examiner Interview Summary (PTOL-413)” or in the applicant's interview summary included in the Applicant's earlier response.

As in previous applicant's replies, the applicant continues to traverse the Office Action assertion. The applicant believes that the prosecution should be based on the actual prior art at the time of the applicant's invention, and not be based on opinion or generalized statements of the prior art that are created by the Office. And that it is more helpful to the Applicant, if the Office cites the specific locations in the prior art, where each of the elements of the applicant's claimed invention are found.

102 Rejection (Conkwright):

The independent & dependent claims were rejected under 102 as being anticipated by “Conkwright” (7,146,329). The applicant respectfully traverses the rejection for at least the following reasons.

At the latest Interview, the Applicant understood that Examiner Greene had agreed that the Conkwright 102 rejection was overcome since Conkwright did not determine a rating indicating the magnitude of preference of the user.

The applicant respectfully submits the following discussion of how Conkwright determines a “user-model”; defines “content attributes” and then selects content for a user using these “attributes”:

A) Conkwright uses set-top-box events to determine attributes of a set-top-box user (“user model”):

In Conkwright, the attributes that define a “user model” of a set-top-box user are:

- a) Estimated demographic characteristics of the set-top-box user [e.g., age; sex; education; etc]. Conkwright figures 22(a)-22(l); col 35/line 62 to col 36/line 36. and/or
- b) Probable “user interests” determined from the “content attributes” of the content the user previously viewed. For example, the user is probably interested in: certain subjects & settings (e.g., the user seems interested home improvement); certain content genres, a certain actor or director; etc. (Conkwright col 9, lines 14-28).

Also see Conkwright figure 19, boxes 1900 & 1901. Figure 20, boxes 2001 to 2004. Figure 25, boxes 2500 & 2501.

Note that even though, the user-model in Conkwright is determined using set-top-box events the Conkwright “user model” does not contain any details of a user's set-top-box events.

B) Conkwright defines “content attributes” for each item of content:

These “content attributes” are:

- a) The demographic group(s) [e.g., age, sex, education, etc] the content is intended for; and/or
- b) Characteristics of the content that are of interest to different users.

This item-of-content is about: a particular subject(s) or setting(s) (e.g., this content is about/related to home improvement); content genres; a

specific actor(s) or director(s); etc. See col 9, lines 14-28; See col 39, lines 49-52 and Figure 25, box 2511.

Note that in Conkwright, *“content attributes” refer to details/characteristics about/inherent in each item of content*. In Conkwright, some of these “content attributes” may be manually defined for an item-of-content. Also note that, in Conkwright, *“content attributes” are not the set-top-box events of a user*.

C) Conkwright then selects content whose “content attributes” match the “user model”:

See Conkwright figure 19, box 1902 (column 35, lines 21-35). Figure 25, boxes 2521 (col 39, line 52 to col 40, line 42).

The Applicant respectfully submits that, Conkwright selects content whose “content attributes” match/correlate with the set-top-box “user-model”. In Conkwright, the attributes that the selection of content is based upon are:

- a) The group(s) the content is intended for (col 39, lines 49-52 and Figure 25, box 2511); and/or
- b) Probable “user interests” determined from the “content attributes” of the previously viewed content (e.g., user probably interested in: a certain actor or director; content genres, subjects & settings; home improvement; etc).
(Conkwright col 9, lines 14-28).

Note that these selection attributes are demographic characteristics and/or characteristics/details about the content. The Applicant respectfully submits that, *set-top-box events are not used within the content selection process that Conkwright uses*.

The Applicant respectfully submits that Conkwright selects content whose content-attributes matches to the “user-model”.

The Applicant was unable to locate in the Conkwright specification, where Conkwright even suggests or implies that a rating magnitude is determined for a particular item-of-content.

Specifically, the Office has not show (at least) where Conkwright has the following elements/features in the Applicant's claimed invention:

- a) a ***plurality of ratings*** associated with the user; wherein a rating, indicating a ***magnitude of preference*** of the user, is associated with each piece or composition.
- b) wherein the magnitude of the rating for the associated piece or composition was determined by using at least some details of ***control actions by the user on the associated*** piece or composition.

Since Conkwright does not contain all of the elements/features in the independent claims, the independent claims overcome the 102 rejections. ***At the latest Interview, the Applicant understood that Examiner Greene had agreed that the Conkwright 102 rejection was overcome.***

The dependent claims depend on other base claims and are allowable as depending from an allowable base claim. These claims are also allowable for their own recited features which, in combination with those recited in a base claim, are neither disclosed nor suggested in the references cited and applied by the Office.

Applicant Comments on the words/phrases asserted by the Office about Conkwright:

The Office Action states: “It is understood that the actual selection of the particular piece or composition is an indication of the amount of preference of the user for that piece because it was selected over all other pieces”. The Office Action states: “Accordingly, the more a piece is selected clearly indicates the user's “rating” of the piece. The Office Action states: “Again, it is considered that the act of selecting a program can be considered the preference and the number of times the program is selected can be considered the rating”. The Office Action states:

“Accordingly, the more a piece is selected clearly indicates the users 'rating' of the piece”.

Applicant respectfully traverses these assertions (and many other similar assertions), for at least the following reasons. The applicant has been unable to find where any of these assertions are actually disclosed or even implied in Conkwright. The applicant has attempted to find the concepts asserted by the Office, by using keyword searches of Conkwright.

- 1) The concepts the “number of times the program is selected” or “the more a piece is selected” could not be found in Conkwright.

When the applicant performed a keyword searches “number of times” in Conkwright, the applicant did not find the concept “number of times selected”. When the applicant performed a keyword searches for “number*” (where * is wildcard) in Conkwright, again the applicant did not find the concept “number of times selected”. Hence, the Office has not shown that this concept even occurs in Conkwright and has not indicated where it appears in Conkwright.

- 2) The applicant performed a text-search for the words “preference or preferences” in a text-searchable version of the Conkwright patent available on the USPTO website. The use of “preference” was not found. “Preferences” was found in only two paragraphs where the use of “preferences” was limited to groups:

“preferences associated with a geographically based group of people”

“to make content more appealing to a particular audience”.

- 3) The concept an “amount of preference” was not found in Conkwright.

When the applicant performed a keyword search for “amount*” in Conkwright, “amount” was found at only 2 locations where the use of amount was unrelated to “amount of preference”. Hence, the Office has not shown that this concept even occurs in Conkwright and has not indicated where it appears in Conkwright.

- 4) The applicant performed a text-search for the words “rating or rating” in a text-searchable version of the Conkwright patent, available on the USPTO website. In each paragraph where “rating or rating” was used in Conkwright, the use was limited to an aggregate rating of a group. For example:

Neilsen ratings.

Group ratings of future programs.

Ratings predictions of commercials and programs for specific demographic groups.

Ratings for geographic areas or time periods or demographic characterizations.

Ratings for demographic specification group.

Again, the concept “an amount of a rating” for a item of content was not found in Conkwright.

5) The concept “the number of times the program is selected can be considered the rating” was not found in Conkwright.

When the applicant performed a keyword search for “rating*” (where * is wildcard), it was found at 16 locations where the use referred to a Nielsen-type rating or a Conkwright-type rating, which indicate/estimate the number/percentage of a whole population or a certain demographic group, that watched or might watch a particular show.

6) In addition to the above, the applicant has thoroughly studied Conkwright and has been unable to find any disclosure, hint or suggestion that Conkwright has these concepts that were asserted by the Office.

Hence, the Applicant respectfully submits that, the Office has not shown where each of these asserted concepts can be found in Conkwright.

103 rejection (Conkwright further in view of either Cohen or Fanning):

Office Action had rejected claims under 103(a) “as being unpatentable over Conkwright ... further in view of either Cohn or Fanning. The Office has cited the “last played”, “play count”, and “my rating” in the Apple iTunes 3.0.1 (Cohn and Fanning). The applicant

respectfully traverses the rejection for at least the following reasons.

At the latest interview, the Applicant understood that examiner Greene indicated that the 103 rejection, for Conkwright further in view of either Cohn or Fanning, was overcome because the Conkwright rejection was overcome.

In addition, the Applicant respectfully submits that this rejection is also overcome for at least the following reasons:

A) Because the Conkwright rejection was overcome, the combination of references does not have all the elements in the Applicant's claims:

As discussed above under 102, the Applicant submits that, at least several of the Applicant's elements cannot be found in Conkwright. Hence, the combination of references would, at the least, also be lacking these elements in the Applicant's claims.

B) Cohn or Fanning do not have “control actions by a user” as in the applicant' claims:

The applicant respectfully submits that the “last played”, “play count”, and “my rating” parameters of the Apple iTunes 3.0.1 ; mentioned in references Cohn or Fanning do not have “control actions by a user” as in the applicant' claims”.

“Play count” parameter:

The playcount indicates the total number of times a particular piece of content has been played for the user. The “Playcount” is incremented after the song has been played . For example, when the Applicant used the Apple iTunes on 7-17-2009, the “Playcount” parameter was incremented after the song had finished playing. In addition, if the playback of a song was started by the user but stopped before the song finished, the “Playcount” parameter was not incremented. Hence, the “Playcount” parameter increments without “control actions by a user”.

In addition, when a playlist is sequentially played by a playback-device, each song in the playlist will be started and completely playback without any

user control action occurring. As each song finishes, the “Playcount” parameter was incremented without any user control action occurring. Again, the “Playcount” parameter changes without “control actions by a user”.

In addition, some playback-devices have a shuffle or random-playback mode, where a playback-device may initiate playback of songs in a random way, without any user control action occurring. As each song finishes, the “Playcount” parameter was incremented without any user control action occurring. Again, the “Playcount” parameter changes without “control actions by a user”.

Hence, for this and other reasons, the Applicant submits that *the “Playcount” parameter is not “control actions by a user”* as in the applicant's claims.

“Last played” Parameter:

The last played time parameter indicates the date and/or time that a particular piece of content was played or experienced by the user. The “Last_Time_Played” is updated to a new date/time after the song has been experienced by the user. For example, when the Applicant used the Apple iTunes on 7-17-2009, the “Last played” parameter was updated to the new date/time after the song had finished playing. In addition, if the playback of a song was started by the user but stopped before the song finished, the “Last played” parameter was not updated with a new date/time. Hence, the “Last Played” parameter changes without “control actions by a user”.

In addition, when a playlist is sequentially played by a playback-device, each song in the playlist will be started and completely playback without any user control action occurring. As each song finishes, the “Last Played” parameter was updated to the new date/time without any user control action occurring. Again, the “Last Played” parameter changes without “control actions by a user”.

In addition, some playback-devices have a shuffle or random-playback mode, where a playback-device may initiate playback of songs in a random way, without any user control action occurring. As each song finishes, the “Last Played” parameter was updated to the new date/time without any user control

action occurring. Again, the “Last Played” parameter changes without “control actions by a user”.

Hence, for this and other reasons, the Applicant submits that the ***“User Last Played Time” parameter is not “control actions by a user”*** as in the applicant' claims.

“My rating” parameter:

The user may manually enter their rating for a song (e.g., 1 to 5 stars).

The manual entry of a rating by the user is not “control actions by a user” as in the applicant' claims.

Therefore, the Applicant respectfully submits that none of these parameters are not ***“control actions by a user” as in the applicant' claims.*** Hence, the applicant respectfully submits that, Cohn & Fanning do not have (at the least) the following elements of the Applicant's independent claims:

- a) details of control actions by a user on pieces or compositions;
- b) wherein said control actions are user actions that:
 - affect the current playback of a piece or composition, or
 - find or select a piece or composition, or
 - designate a piece or composition for playback.
- c) a plurality of ratings associated with the user; wherein a rating, indicating a magnitude of preference of the user, is associated with each piece or composition.
- d) wherein the magnitude of the rating for the associated piece or composition was determined by using at least some details of control actions by the user on the associated piece or composition.

Therefore, the 103 rejection, for Conkwright further in view of either Cohn or Fanning, is overcome for not having all the element's in the applicant's claims.

C) Cohn or Fanning are not combinable into Conkwright:

As described under the 102 Conkwright discussion above, note that Conkwright selects content whose attributes match/correlate with the set-top-box “user-model”. In Conkwright, the attributes that the selection of content is based upon are:

- a) The group(s) the content is intended for (col 39, lines 49-52 and Figure 25, box 2511); and/or
- b) Probable “user interests” determined from the “content attributes” of the previously viewed content (e.g., user probably interested in: a certain actor or director; content genres, subjects & settings; home improvement; etc). (Conkwright col 9, lines 14-28).

Note that in Conkwright the attributes, used in the selection process, are characteristics/details of/about the content itself. Hence, “my rating”; “play count” and “last played” features described in Fanning or Cohn are not compatible with the content selection process used by Conkwright.

Because of these incompatibilities, *the applicant respectfully submits that, the references Cohn or Fanning can not be combined into Conkwright, at the least, because of the way that Conkwright selects content for the user.* Hence, the applicant respectfully submits that these references cannot be combined together in the manner indicated in the Office Actions.

D) Applicant believes that the Office has not established a prima facie case of obviousness:

“[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” (MPEP2141). “The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness” (MPEP 2142). Specifically, the Applicant questions the rationale provided by the Office. Because of item A, B and C above, Applicant does not believe it would be useful to present arguments on this issue at this time.

Therefore, for at least the reasons described above, the 103 rejection of Conkwright

further in view of either Cohn or Fanning, is overcome.

103 rejection (Plastina):

The Office Action had rejected claims under 103(a) “as being unpatentable over Plastina (6,941,324). The applicant respectfully traverses the rejection for at least the following reasons.

A) Applicant believes that the Office has not established a prima facie case of obviousness:

The Office Action only provided a single listing of figures and columns/lines but did not show where each element in the applicants independent claims can be found in Plastina. Hence, the Office has not satisfied the requirements needed to established a prima facie case of obviousness for the independent claims.

In addition, for the dependent claims, the Office Action only asserts in a general way that “these limitations are considered obvious variants ...”. The Office has not cited where each of the elements in the applicant's dependent claims are found in Plastina. Hence, the Office has not satisfied the requirements needed to establish a prima facie case of obviousness for the dependent claims.

B) Applicant believes that Plastina does not have all the elements in the Applicant's claims:

Plastina discloses “methods and systems for the processing of playlists” (Plastina title). Plastina discloses “Various systems and methods described above permit a user's content experience (e.g. music playing experience) to be monitored and for metadata describing this experience to be collected. This metadata can be dynamically updated as a user experiences media content and then used to impart to the user a personalized experience that is tailored to that specific user” (Plastina abstract).

Plastina provides a listing of “exemplary *parameters that can be monitored*” (Plastina col 8, lines 30-50). The Plastina parameters include:

- 1) “User_Rating” parameter. The user may manually enter their rating for a song (e.g., 1

to 5 stars). See Plastina col 9, lines 15-24.

The manual entry of a rating by the user is not “control actions by a user” as in the applicant' claims.

2) “User_Playcount_Total” parameter. “The playcount total comprises the total number of times a particular piece of content has been played by the user.” (Plastina col 9, lines 47-49).

The “Playcount” is incremented after the song has been played by the user. For example, when the Applicant used the Apple iTunes on 7-17-2009, the “Playcount” parameter was incremented after the song had finished playing. In addition, if the playback of a song was started by the user but stopped before the song finished, the “Playcount” parameter was not incremented. Hence, the “Playcount” parameter changes without “control actions by a user”.

In addition, when a playlist is sequentially played by a playback-device, each song in the playlist will be started and completely playback without any user control action occurring. As each song finishes, the “Playcount” parameter was incremented without any user control action occurring. Again, the “Playcount” parameter changes without “control actions by a user”.

In addition, some playback-devices have a shuffle or random-playback mode, where a playback-device may initiate playback of songs in a random way, without any user control action occurring. As each song finishes, the “Playcount” parameter was incremented without any user control action occurring. Again, the “Playcount” parameter changes without “control actions by a user”.

Hence, for this and other reasons, the Applicant submits that ***the “Playcount” parameter is not “control actions by a user”*** as in the applicant' claims.

[Aside: Note that, a song with a high “Playcount”, may have been heard so many times by the user, that they are tired of hearing that song and the user does not want to hear that song again. Alternately, a song with a high high “Playcount”, may still be a user's favorite.]

3) Various other Playcount parameters ... each for certain parts of the day.

For example, “User_Playcount_Morning” parameter. See Plastina col 9, line 51 to col 10 line 7. For at least the reasons described above for the “User_Playcount_Total” parameter, the Applicant submits that *these various Playcount parameters are not “control actions by a user” as in the applicant' claims.*

4) “User_Last_Time_Played” parameter. “The last played time parameter comprises the date or time that a particular piece of content was played or experienced by the user.” (Plastina col 9, line 9-12)

The “Last_Time_Played” is updated to a new date/time after the song has been experienced by the user. For example, when the Applicant used the Apple iTunes on 7-17-2009, the “Last played” parameter was updated to the new date/time after the song had finished playing. In addition, if the playback of a song was started by the user but stopped before the song finished, the “Last played” parameter was not updated with a new date/time. Hence, the “Last Played” parameter changes without “control actions by a user”.

In addition, when a playlist is sequentially played by a playback-device, each song in the playlist will be started and completely playback without any user control action occurring. As each song finishes, the “Last Played” parameter was updated to the new date/time without any user control action occurring. Again, the “Last Played” parameter changes without “control actions by a user”.

In addition, some playback-devices have a shuffle or random-playback mode, where a playback-device may initiate playback of songs in a random way, without any user control action occurring. As each song finishes, the “Last Played” parameter was updated to the new date/time without any user control action occurring. Again, the “Last Played” parameter changes without “control actions by a user”.

Hence, for this and other reasons, the Applicant submits that the *“User Last Played Time” parameter is not “control actions by a user”* as in the applicant' claims.

5) “User Service Rating” parameter. According to Plastina: “The user service rating parameter can be used to provide a rating from a third party. For example, a web service such as MSN music can provide a rating for the content.” See Plastina col 9, line 42-46.

The Applicant submits that the ***“User Service Rating” parameter is not “control actions by a user” as in the applicant’ claims.***

6) “User_Custom_{N}” parameters. User defined parameters.

See Plastina col10, lines 8-17. The Applicant submits that ***Plastina has not suggested any parameters which correspond to “control actions by a user” as in the applicant’ claims.***

7) Other parameters.

Plastina indicates that: “The examples given ... are intended as examples only and should not, accordingly, be construed to limit the parameters or types of parameters that can be utilized. Hence, other parameters can be used without departing from the spirit and scope of the claimed subject matter.” See Plastina col 8, lines 21-29.

The Applicant submits that ***Plastina has not suggested any parameters which correspond to “control actions by a user” as in the applicant’ claims.***

8) “User Effective Rating” parameter.

Plastina states that “The effective rating parameter is a tool that can be used by the system to provide an “effective rating” for content that the user has not physically rated.” See Plastina col 9, 25-28. Plastina states that “This is advantageous in that it enables the user to see not only their ratings, but the effective ratings that have been automatically provided by the system.” See Plastina col 16, 51-53.

Plastina indicates that the “User Effective Rating” could be determined using the “Playcount” (col. 9, line 47-50) and “User Service Rating” (col. 9, line 42-46). The Applicant submits that, as discussed above, neither of these parameters are “control actions by a user” as in the applicant’ claims. In addition, Plastina has not suggested any parameters which correspond to “control actions

by a user” as in the applicant' claims. Even if one used all of the parameters suggested by Plastina to determine the “User Effective Rating”, ***none of these parameters would include “control actions by a user” as in the applicant' claims.***

Hence, Plastina does not have, at least, the following elements in the Applicant's independent claims:

- a) details of ***control actions by a user on pieces or compositions;***
- b) wherein said control actions are user actions that:
 - ***affect the current playback of a piece or composition, or***
 - ***find or select a piece or composition, or***
 - ***designate a piece or composition for playback;***
- c) wherein the magnitude of the rating for the associated piece or composition was determined by using at least some ***details of control actions by the user on the associated piece or composition.***

Comments on new cited art Logan (5,732,216):

Near the end the the last interview, the Examiner indicated he had done additional searching and had found a new prior art reference. The Examiner provided a copy of a newly found cited art Logan (5,732,216) to the Applicant. The examiner pointed to blocks/words in the figures of the copy of Logan that had been highlighted in yellow-marker. These included:

“User Data & Usage Log” and “Usage Data” in the cover figure.

“Menu; Mark; Back; Skip; Return; Go; Record New Volume; Record User's Response” in figure 3.

“Usage Log Processing” in figure 4.

Logan states that:

“a given subscriber may indicate an interest in a group of specific topics” (Logan: col 1, lines 50-51).

“the user may alter his or her selections and general subject matter preferences” (Logan: col 8, lines 9-10).

The applicant respectfully submits that, in Logan, the user's “usage data” may be used to determine a user's “subject matter preferences”.

“A usage log is compiled to record the subscriber's use of the provided program materials, to return data to the host for billing, to adaptively modify the subscriber's preferences based on actual usage, ...” (Logan: abstract).

“The TopChoices array accordingly contains an adaptively learned set of subscriber subject matter preferences which is continuously modified automatically without requiring attention from the subscriber.” (Logan: col 27, lines 21-25).

The applicant respectfully submits that, in Logan, programs are selected that match the user's “subject matter preferences” or that the preferences the user had manually entered.

“The host organizes the program segments by subject matter and creates scheduled programming in accordance with preferences associated with each subscriber.” (Logan: abstract).

“A weighting value may be calculated to indicate the extent to which the subscriber's stated interests match a given program or category of programs. Programs to which high weighting values are assigned are placed in the Schedule Table if the usage log data does not indicate the subscriber has already played that program,” (Logan: col 23, lines 47-56).

“The host server may advantageously use an optimization technique such as linear programming to complete the segment selection process. The optimizer will take into account the Subscriber's time constraints, cost constraints, and subject preferences.
The subject preferences are based on the user's expressly stated interests and others interests inferred from the user's playing selections, as noted earlier. Each segment resident in the database at the time of download is evaluated against the constraints and the optimizer thus chooses a set of segments which is best for the subscriber at that time.

.....” (Logan: col 24, lines 6-33).

Logan has many similarities to Conkwright. Similar to Conkwright, Logan uses “usage data” to determine a user's “subject matter preferences” (e.g., the user appears to like home improvement programs). Also similar to Conkwright, Logan selects programs for the user that match the user's “subject matter preferences” (e.g., select other programs for the user that are about home improvement). Hence, Logan is overcome because for the same and/or similar reasons/arguments as made in the Applicant's discussion of Conkwright above.

Summary:

The applicant has written simpler and clearer claims. Claims 163-170, 174-176, 211-213, 217-218 and 232-263 are pending. The number of total claims has been increased. The number of independent claims is unchanged.

The undersigned wishes to make it clear that not making arguments or other additional arguments at this time, should not be construed as a concession or admission to any statement in the Office Action. The applicant is not conceding any claimed subject matter and reserves the right to prosecute any matter in canceled or amended claims; in future prosecution and/or continuing application(s).

The applicant respectfully requests reconsideration of this application. The applicant believes the application as amended is in condition for allowance. The applicant respectfully requests that a timely Notice of Allowance be issued in this case. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call the Applicant.

Respectfully submitted,

/James W. Wieder/ (e-signature) August 15, 2009

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